

**NURSING HOME ADMINISTRATOR EXAMINING BOARD
MINUTES
MARCH 17, 2005**

PRESENT: Jerry Schallock, Mary Ann Clark, Kenneth Arneson, (via telephone), Mary F. Pike, Patricia Benesh (via telephone), Mary K. Lease, and Dr. Robert Kessler

EXCUSED: David Egan, Patricia Schulz

STAFF PRESENT: Jerry Lowrie, Bureau Director; Pat Schenck, Program Assistant; Ruby Jefferson-Moore, Legal Counsel; Judy Mender, Credentialing; and Division of Enforcement Staff

CALL TO ORDER

Jerry Schallock, Chair, called the meeting to order at 9:25 a.m. A quorum of seven members was present.

AGENDA

Additions to agenda:

- Add four case closings to Item 15 b.
- Add "Appoint a Board Liaison for Course Review" to Item 11.
- Discard page 9
- Add Sandra Rowe to Item 6. v. Discuss the Department Budget Issues.
- Move agenda material under Item 10, to Item 13. "Resident Relocation Initiative".

MOTION: Mary Ann Clark moved, seconded by Robert Kessler, to approve the agenda with additions. Motion carried unanimously.

ELECTION OF OFFICERS FOR 2005

MOTION: Robert Kessler moved, seconded by Mary Ann Clark, to retain Jerry Schallock as Chair, David Egan as Vice Chair and Patricia A. Schulz as Secretary. Motion carried unanimously.

APPOINT BOARD'S REPRESENTATIVES FOR SCREENING PANEL BY BOARD CHAIR

Mary Ann Clark and Jerry Schallock will continue to serve on the screening panel in 2005.

APPROVAL OF MINUTES (NOVEMBER 11, 2004)

MOTION: Mary Pike moved, seconded by Mary Ann Clark, to approve the minutes of November 11, 2004 as written. Motion carried unanimously.

**ADMINISTRATIVE REPORT
JERRY LOWRIE, BUREAU DIRECTOR
BOARD ROSTER**

The members updated mailing and e-mail addresses.

2005 MEETING DATES

The next meeting is scheduled for June 9, 2005.

**SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND
ADMINISTRATIVE RULES AND PRESS RELEASES**

Noted.

SMALL BUSINESS COMMITTEE DISCUSSION

Mr. Lowrie presented information regarding the Small Business Regulatory Advisory Committee and responded to members' questions.

DEPARTMENT BUDGET UPDATE

Deputy Secretary Sandra Rowe met with the Board and reported on the Governor's budget reduction of 10% along with staff reductions by 11.85 positions. The Governor's budget proposal is to restructure the Department by moving attorneys, paralegals, human resource staff, and payroll benefit services to the Department of Administration. Consolidate attorneys to become part of an enterprise-wide law firm. This would reduce the Department positions by 28 full time employees. The expenditure authority would remain to purchase services from the Department of Administration. The impact of reducing of legal attorneys is unknown. Investigators and other Division of Enforcement staff will remain at the Department. The Department will retain the Impaired Professional program.

Once the Department completes a fee study, a credential fee increase will be introduced in the next biennial budget.

The Department of Administration has approved the building renovation project. Contracts have been signed with a pre construction meeting is taking place.

TRAVEL AND HOTEL POLICY DISCUSSION

Mr. Lowrie reported on the Department's hotel reservation and travel policy. The Department will fund one Board or Section member per fiscal year. It will be the Board members responsibility to cancel hotel reservations made under their name if they will not be attending a meeting.

TRAVEL NAB 2005 ANNUAL MEETING, JUNE 15-17, 2005, BOSTON, MA

The Board would like to attend NAB's Annual meetings.

MOTION: Robert Kessler moved, seconded by Mary K. Lease, to nominate David Egan to attend the NAB 2005 Annual Meeting on June 15, 2005 in Boston MA. If Mr. Egan is unable to attend, Jerry Schallock, Chair will nominate an alternate. Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULES UPDATE UPDATE AND DISCUSSION ON AB-32 (WASSERMAN)

Mr. Lowrie reported that Assembly Bill 32 was introduced and referred to the Committee on Aging and Long-Term Care. A hearing date has not been set. Board members are welcome to testify at the hearing. Jerry Schallock and Ken Arneson will be available to testify.

NHA 3 REVISIONS- CONTINUING EDUCATION

NHA 3 revisions were incorporated into a scope statement and has been referred to the Secretary's office for review and approval.

GOVERNOR'S BUDGET NURSING HOME PROPOSAL

Mr. Schallock, Chair, reported on the Governor's nursing home budget proposal. Some of the proposals included Medicaid increases of less than 2% in the next biennium. Most of the fees come from tax on the facilities to generate revenue. The State assesses the facilities a tax on each licensed bed and then takes the funds and allocates them towards the federal 60/40 match. A portion of the income generated goes back to the facility and the remainder goes to other facilities.

PRACTICE ISSUES

None.

CREDENTIALING/REINSTATEMENT/RENEWAL

None.

**EDUCATION/EXAMINATION ISSUES
REQUEST FOR COURSE APPROVAL, INSTITUTE FOR CONTINUING EDUCATION
AND RESEARCH**

Judy Mender met with the Board to discuss the request for course approval from the Institute for Continuing Education and Research in Pennsylvania as a Specialized Course.

This matter was tabled until the June 9, 2005 Board meeting. Judy Mender, Credentialing Staff will contact NAB, and the state Boards of Pennsylvania, New Jersey and Delaware to inquire as to whether or not these states still accept the Institute for Continuing Education and Research Specialized Courses.

APPOINT BOARD LIAISON FOR COURSE REVIEWS

The examination center has requested that a Board liaison be appointed to review courses. Kenneth Arneson volunteered to be the Board liaison for reviewing coursework. The board will discuss this further at the June 9, 2005 meeting.

BOARD MEMBER ACTIVITY

Mary Pike is serving on an Advisory Committee with the Department of Health.

**MISCELLANEOUS CORRESPONDENCE/INFORMATION
SEN. KOHL'S BACKGROUND CHECK INITIATIVE**

The Board reviewed a press release by U.S. Senator Herb Kohl. Kohl announced Wisconsin awarded \$2.3 million to participate in criminal background check program for long-term care workers.

Wisconsin will receive more than \$2.3 million to participate in pilot program created by U.S. Senator Herb Kohl to prevent nursing home resident abuse as part of the 2003 Medicare Reform Bill. Senator Kohl introduced legislation in the 108th Congress to establish criminal background checks to prevent people with serious criminal convictions from working with patients in long-term care facilities. The two-year pilot program, overseen by the U.S. Department of Health and Human Services, will determine the impact of national criminal background checks on abuse and neglect in nursing homes and other long-term care facilities. Other states named to conduct the pilots include Alaska, Idaho, Michigan, Nevada, New Mexico, and South Carolina.

An alarming number of cases have been reported where workers with criminal backgrounds were cleared to work in direct patient care, and have subsequently abused patients in their care.

US DEPARTMENT OF HEALTH AND HUMAN SERVICES ENFORCEMENT SURVEY UPDATE

The Board reviewed a survey on improving enforcement via the Special Focus Facility Program for Nursing Homes from the Department of Health & Human Services. Improvements to Center for Medicaid and State Operations, Special Focus Facility Program include more nursing homes, better selection, stronger enforcement and reducing the reporting burden.

Changes by the Special Focus Facility Program will include:

- Number of Facilities
- Selection & Ability to Focus on Additional Facilities
- More Robust Enforcement for Lack of Significant Progress
- Reduced Reporting Requirements

DOJ NURSING HOME VIOLATION SETTLEMENT INFORMATION

The Board reviewed a news release regarding Lautenschlager Announces Extendicare Homes to Pay \$2.3 M in Largest State Settlement over Nursing Home Violations.

A civil complaint will be filed in Chippewa County Circuit Court requiring payment to the State of Wisconsin \$2,273,485.00. The complaint alleges life-threatening violations in an under-staffed nursing home. It is the largest such settlement in Wisconsin. The action was taken over numerous violations including violations that led to the death and injury of an elderly resident at a facility owned and formerly operated by Extendicare.

NAB NEWSLETTER

The Board discussed designating a Board member to respond to NAB's interstate endorsement and reciprocity survey. Mr. Lowrie will contact the Board Chair when the survey arrives at the Board office.

RESIDENT RELOCATION INITIATIVE

Patricia Benesh reported on the resident relocation initiative that involves identifying individuals with high levels of nursing needs that are more difficult to relocate to the community. The Board reviewed a chart for each county and facilities available in each county and the number of special focus facilities in each state. Wisconsin has 410 nursing homes with only four special focus facilities. Ms. Benesh will send Mr. Lowrie additional information.

NEW BUSINESS

None.

CLOSED SESSION

MOTION: Robert Kessler moved, seconded by Mary Ann Clark, to convene the meeting in Closed Session pursuant to sections 19.85(1)(a), (b), (f) and (g), Wis. Stats.: to consider the licensing or discipline of a person licensed by the Board or the investigation of charges against such a person, and to discuss the case status report and case closings. Roll Call Vote: Mary K. Lease-yes; Mary Ann Clark-yes; Jerry Schallock-yes; Kenneth Arneson-yes; Mary F. Pike-yes; Patricia Benesh-yes; Robert Kessler-yes. Motion carried unanimously.

Open Session recessed at 11:03 a.m.

The Board deliberated on pending applications, case closings, monitoring issues, and an administrative warning in Closed Session.

RECONVENE IN OPEN SESSION

MOTION: Robert Kessler moved, seconded by Mary K. Lease, to reconvene in Open Session at 11:30 a.m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MONITORING VINCENT BERGSTROM 01 NHA 018

MOTION: Robert Kessler moved, seconded by Mary Ann Clark, to grant Vincent Bergstrom request for a 3-month stay of suspension until the June 9, 2005 Board meeting. Robert Kessler, case advisor. Motion carried.

CASE CLOSINGS

02 NHA 035

MOTION: Mary Ann Clark moved, seconded by Jerry Schallock, to close cases **02 NHA 035** for insufficient evidence. Jerry Schallock, case advisor. Motion carried.

01 NHA 022

MOTION: Mary K. Lease moved, seconded by Robert Kessler, to close cases **01 NHA 022** for no violation. Jerry Schallock, case advisor. Motion carried.

02 NHA 023

MOTION: Robert Kessler moved, seconded by Mary K. Lease, to close cases **02 NHA 023** for insufficient evidence. David Egan, case advisor. Motion carried.

03 NHA 006

MOTION: Mary Ann Clark moved, seconded by Mary F. Pike, to close cases **03 NHA 006** for insufficient evidence. David Egan, case advisor. Motion carried.

02 NHA 031

MOTION: Mary K. Lease moved, seconded by Robert Kessler, to close cases **02 NHA 031** for prosecutorial discretion (P5). Robert Kessler, case advisor. Motion carried.

04 NHA 001

MOTION: Robert Kessler moved, seconded by Mary Ann Clark, to close cases **04 NHA 001** for prosecutorial discretion (P3). David Egan, case advisor. Motion carried.

04 NHA 002

MOTION: Mary Ann Clark moved, seconded by Mary K. Lease, to close cases **04 NHA 002** for no violation. Patricia Schulz, case advisor. Motion carried.

04 NHA 016

MOTION: Robert Kessler moved, seconded by Mary K. Lease, to close cases **04 NHA 016** for insufficient evidence. Ken Arneson, case advisor. Motion carried.

04 NHA 020

MOTION: Mary Ann Clark moved, seconded by Robert Kessler, to close cases **04 NHA 020** for prosecutorial discretion (P2). Mary Pike, case advisor. Motion carried.

ADMINISTRATIVE WARNING

None.

STIPULATION
JAMES WEIBELER 01 NHA 022

MOTION: Mary K. Lease moved, seconded by Robert Kessler, to adopt the Stipulation, Final Decision and Order, Findings of Fact, Conclusions of Law and Order in the matter concerning **James Weibeler 01 NHA 022**. Jerry Schallock, case advisor. Motion carried.

PENDING APPLICATIONS

None.

EXAMINATION QUESTION

None.

OTHER SUCH ITEMS AS AUTHORIZED BY LAW

None.

ADJOURNMENT

MOTION: Robert Kessler moved, seconded by Mary K. Lease to adjourn the meeting at 11:35 a.m. Motion carried unanimously

NEXT MEETING: June 9, 2005